FILED
MAY 14 1923
WM. R. STANSBU
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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1922.

No. 918. 251

THE UNITED STATES OF AMERICA, *ex relatione*, THE BALDWIN COMPANY,

*Appellant*,

vs.

THOMAS E. ROBERTSON, as Commissioner of Patents, and R. S. HOWARD COMPANY, intervenor.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

## MOTION TO AFFIRM OR DISMISS WITH BRIEF ON BEHALF OF R. S. HOWARD COMPANY.

SAMUEL S. WATSON,
*Attorney for R. S. Howard Company,*
2 Rector Street,
New York City, N. Y.

## MOTION TO AFFIRM OR DISMISS.

Now comes the R. S. Howard Company, one of the above-named appellees, and moves for an order affirming the decree appealed from or dismissing the appeal.

The motion is based upon the allegations and admissions contained in the bill of complaint and the matters appearing of record of which the Court will take judicial notice, and upon the following specific grounds:

1. That the bill of complaint fails to state a cause of action, and is bad in substance;

2. That the Supreme Court of the District of Columbia is without power or authority to grant the relief prayed for, or any relief in the premises;

3. That all issues involved in the action at bar are *res adjudicata*, as a matter of law, as appears from the allegations and admissions contained in the bill of complaint and in the matters of record of which the Court will take judicial notice.

R. S. Howard Company,
By Samuel S. Watson,
Its Attorney.

To:

The Baldwin Company, John E. Cross, Esq., John Spaulding Flannery, Esq., Frederic D. McKenney, Esq.:

Please Take Notice that the undersigned will submit the foregoing motion to the Supreme Court of the United States on Monday, June 4, 1923, at twelve o'clock, noon, or as soon thereafter as counsel can be heard.

Samuel S. Watson,
Attorney for R. S. Howard Company.